IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER No.550 of 2006

WITH

CIVIL APPLICATION NO.709 OF 2006

IN

APPEAL FROM ORDER NO. 550 OF 2006

Sundrabai Tanu Chavan .. Appellant

versus

M/s.Nirmit Developers .. Respondent

...

Mr.V.Y. Sanglikar for the appellant.

Mr.Sanjay Kadam with Miss Dukande for respondent.

CORAM : D.G. KARNIK, J

DATED : 7th October 2006

P.C.:

1. Heard counsel for the parties.

2. After having heard the parties, I am satisfied that the appeal raises arguable points. Hence, appeal is admitted.

3. As regards the interim relief, it maybe noted that appellant was a tenant in the property which was to be demolished. By an agreement dated 19th January 2000, the appellant surrendered the possession of the rented premises and respondents agreed to give to give her premises in the new construction. Temporary premises were also provided to her till completion of the construction. Accordingly, the new building has been constructed. However, the respondents are refusing to hand over the possession of the new premises as per the agreement on the ground that there is a dispute between the respondent and her licencee. In my view, respondents are not concerned with the dispute between the appellant and her licencee. If possession is given to the receiver the respondent would be sufficiently protected if any claim is made against him by the appellant’s licensee in respect of the new premises. Accordingly, Court Receiver, High Court, Bombay is appointed as the receiver in respect of the suit premises. Respondent shall hand over the

possession of the suit premises to the receiver within two weeks on the appellant simultaneously handing over the possession of the temporary premises in her occupation to the appellant. If the possession is not handed over, the court receiver shall be entitled to take possession of the suit premises and hand them over to the appellant as an agent of the Court Receiver on appellant furnishing an undertaking to return the possession and pay damages, if any, in the event of adverse order either in this appeal or in the proceedings between the appellant and her licencee. It would not be necessary for the receiver to insist upon any royalty.

(D.G. KARNIK, J)